What About Farm Worker Unionization?

In recent years, there has been much publicity and activity directed towards the unionization of farm workers in Florida.

The Florida Legislature is being asked by Cesar Chavez' United Farm Workers Union to pass an agricultural labor relations act [collective bargaining for farm workers] similar to the California law which has caused chaos among workers, growers, processors and consumers.

Florida can't afford to experience the turmoil that has been created in California, which has resulted in crop losses, lost income to workers and growers and the disruption of food supplies to the nation's consumers.

The 11-day California canners strike in the summer of 1976 resulted in an estimated loss of 300,000 tons of tomatoes, 100,000 tons of peaches and 35,000 tons of apricots which translate into $26 million in destruction to growers, workers and consumers.

Proponents of a state farm labor relations bill [collective bargaining bill for farm workers] have distributed erroneous and distorted information in support of their position.

The following is presented to set the record straight and to answer questions that have been raised on this vital issue.

What is collective bargaining legislation?

Collective bargaining legislation establishes procedures to assist unions in organizing.

It defines the rights of employees and employers in determining recognition of a union and defining unfair labor practices. The original National Labor Relations Act was enacted in 1936. Agricultural field workers were exempted from coverage. However, agricultural workers engaged in packing, processing and shipping are covered by the federal law because they are considered to be in interstate commerce.

Why aren't farmworkers included under the National Labor Relations Act?

Originally because few farms were engaged in interstate commerce, but more recently because of the opposition of Cesar Chavez and his

supporters, growers have passed for federal labor legislation for a number of years and have supported several bills. Had Chavez been willing to support any of these, there is little doubt that they would now be law.

→ Do states have collective bargaining legislation?

Yes! Some states do have collective bargaining legislation. However, only four (Arizona, California, Idaho and Kansas) have separate state legislation for farm workers.

→ Are there any current state laws similar to that which has been proposed for Florida?

Yes. The bill introduced in the 1976 Florida Legislature is similar to the California Agricultural Labor Relations Act. The California bill was enacted in 1975 under duress of a national boycott of California farm products and a labor war between the United Farm Workers and the Teamsters Union.

→ What has been the experience with the California Agricultural Labor Relations Act?

It has helped Cesar Chavez build a more powerful organization by organizing many growers, but strikes and boycotts have continued. The California Agricultural Labor Relations Board began operations in August of 1975. By December, it had run through its entire annual budget of $1.3 million and received additional emergency funds of $1.25 million from Governor Brown. By February of 1976, the ALRB was broke again and was forced to lay off employees and cease operations. During this period, only a few elections were processed to completion. Under intense pressure from the UFW and its supporters (including another national boycott), the California Assembly provided an additional $6.8 million in July 1976. Thus, the burden to California taxpayers is more than five times the original estimate after only a year of operation.

→ Has the California Act been successful in achieving labor peace?

Definitely not. Strikes and boycotts have continued, and even increased since the enactment of the California labor law. One national boycott was instigated in protest of the law itself. A look at Chavez' tactics over the past 15 years indicates the boycotts will continue. Only federal farm labor legislation can assist elimination of secondary boycotts.

UFW organizers are not in the fields with farm workers, they are in the cities — organizing boycotts, the purpose of which is to deny markets to growers until they sign their employees over to the union.

→ If a state were to supervise secret ballot elections, wouldn't this replace the boycott as an emergency tactic?

It hasn't in California. The boycott is used to demand recognition, extract huge concessions from growers during negotiations, and the United Farm Workers has also boycotted companies whose employees have voted to be represented by another union or by no union.

→ What is a boycott? A secondary boycott?

When a union asks consumers not to patronize a company with whom it has a labor dispute, it is called a boycott. If, however, a union were to mob picket a food store to dissuade its customers from shopping, the pressure is being applied to someone not involved in the labor dispute and this is called a secondary boycott. Secondary boycotts are ordinarily illegal under federal labor laws, but since Chavez has managed to avoid inclusion under the National Labor Relations Act, he continues to harass innocent bystanders.

→ What is a recognitional strike or a recognitional boycott?

A recognitional strike-boycott is used by a union to force employers to negotiate without a secret ballot election by the workers to determine whether they want a union. The recognitional boycott violates the rights of the worker and the grower, because outsiders to the work situation can force a union upon an employer, regardless of the wishes of the employees, who are then required to accept the conditions of a contract obtained by extreme coercion. The recognitional boycott is used by Chavez.

→ Do Florida's farm workers now have the right to join labor unions?

Yes, certainly. Just like all other Florida workers, farm workers are covered under the provisions of Chapter 447 of the Florida Statutes, which, in part, states:

"Employees shall have the right to self-organization, to form, join or assist labor unions or labor organizations or to refrain from such activity, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection."

This part of the Florida Statutes is commonly called the "Right to Work" Law.

→ Are any farm workers in Florida already organized?

Yes, they are! Under existing law, when there is a genuine need and desire on the part of the workers, agricultural unions have been formed. There have been some farm workers unionized in Florida since the 1940's.

Today, in various parts of Florida, farm workers are represented by the International Association of Machinists & Aerospace Workers, The Retail, Wholesale & Department Store Union, and the United Farm Workers Union.

There have been other attempts by various unions to organize farm workers in Florida over the years. Many of Florida's packinghouses, concentrate plants, sugar mills and workers in allied activities are unionized by various unions.

→ Since Florida's farm workers already have the right to organize why is the United Farm Workers' Union pushing for another state law?

The state legislation proposed by the United Farm Workers would dissolve the Florida state government in assisting the UFW in organizing Florida's farm workers, which is something they do not have under existing state law.

The state legislation promoted by the UFW provides, among other things, that the union may make its own rules regarding the acquisition or retention of membership and also that this law would supersede all other Florida laws. Thus, the UFW law and the Florida "Right to Work" law would be in conflict and could take years of litigation to resolve.

→ What is Cesar Chavez' position on federal legislation?

Cesar Chavez has for years strongly opposed the inclusion of farm workers under the federal National Labor Relations Act.

→ Does it seem reasonable the UFW would press for state laws on one hand, while opposing federal laws on the other?

It does, if the union wants to have its cake and eat it, too. With state legislation, a union could have all of the provisions contained in federal laws to assist in organization and gaining recognition by an employer while avoiding the restrictions which federal laws impose upon unions. The most noticeable difference is the federal prohibition of secondary boycotts, which would be beyond the reach of a state law because the secondary boycott would primarily occur in other states.

With state legislation, unions would be exempt from federal laws and enforcement agencies, which give union members protection from corrupt union officials, provide for financial accounting to a union's members, prohibit kick backs to the union officials, provide for a union's duty of fair representation, prohibit improper disciplinary action of members, provide for election of union officials and voting upon any increase in dues and assessments. Labor history is replete with instances where employees need

these and other protections from unions and it is difficult to understand why a farm workers' union should not be subject to the same controls.

→ How many farm workers are there in Florida and how many are migrants?

U.S. Department of Agriculture statistics reveal at peak in January 1976, there were 91,000 hired and 30,000 family workers on Florida farms. Since Florida grows many different crops under notably different climatic and geographic conditions throughout the state over virtually a 12-month period, the number of "different" hired and family farm workers would be somewhat higher than the USDA figures. Of the hired workers, about one-third are year-round workers. About half of the seasonally hired workers are migratory.

Florida's farm work force is a continually changing work force.

→ Why is the term "migrant" worker used so often?

There are many different definitions of a "migrant," depending on who is defining the term. To many people, all farm workers are "migrants;" to others, migrants are only workers who travel "out of state." U.S. Department of Labor estimates there are less than 200,000 "migrants" in the United States and the numbers are dwindling. In Florida, using the broadest definition, there are about 30,000-35,000 "migrants." The term, "migrant" has been purposely used by many individuals and groups because (1) it gives most people a vision of a downtrodden nomad with no home or roots and who needs all the assistance he can get; and (2) since about 1965, the use of the term, "migrant worker" has provided widespread opportunity in obtaining both federal grants and private foundation grants and monies for many varied programs to help "migrants."

Many of the problems surrounding some migrant and seasonal farm workers are not so much caused by employment, but rather by unemployment, under-employment and the relative unemployability of some workers — factors which are not always under the control of the grower or farm worker employers.

→ Are wages and working and living conditions of Florida's farm worker as poor as depicted by the United Farm Workers?

No! There is no doubt that some of our farm workers are poor and some have problems. However, the percentage of poor farm workers and the number of farm workers with major problems is probably no greater in agriculture than in any other industry.

Agriculture is not only a seasonal industry, but

most of the seasonal jobs are out of doors in the open and subject to the vagaries of nature. Additionally, market and growing conditions influence the demand for labor. As a result, there are many "peaks and valleys" in the demand for farm workers.

→ Is there good farm housing in Florida?

There is excellent farm worker housing in Florida. However, there is not enough good low cost or low rent housing. Florida's farm workers suffer the same problems as all other workers in finding low cost or low rent housing facilities. There have been tens of millions of dollars in private and governmental funds used in the last decade in the construction of housing for farm workers in Florida, but there continues to be a real shortage of good housing — particularly for "migrant" workers and their families.

The trend in Florida is away from grower-owned housing to individual worker-owned and/or rented housing, either privately or through Public Housing Authority camps. About 25 percent of the farm work force now lives in "on farm" housing.

→ How do farm worker wages in Florida compare with those in the U.S. as a whole?

Farm wages in Florida are among the highest in the nation. U.S. Department of Agriculture statistics show the 1975 annual average wage rate for Florida's Hired Farm Workers, who are paid or guaranteed an hourly minimum, was $2.82 per hour, third in the nation (California, $2.91 and Washington, $2.93).

However, most seasonal farm workers in Florida are paid on a piece-rate basis with a federally dictated minimum hourly wage guarantee of $2.00 per hour as of January 1, 1976, which will increase to $2.20 per hour as of January 1, 1977, and $2.30 per hour as of January 1, 1978. USDA statistics show Florida farm workers paid on a piece-rate basis earned an average of $3.58 per hour in April 1976, the third highest in the nation and only 3 percent less than California with all its unionization activity, and with extensive union contracts going back 10 years.

→ What do workers earn in citrus piece work?

There are no recent extensive surveys of earnings opportunities in citrus.

However, an extensive Fla. Dept. of Citrus Survey for the 1971-72 picking season showed that an average picker working in an average crew could have earned $3.26 per hour (for a 7.3 hour day), $118 per week (for five days or 36.5 hours), and $4,275 (32.9 weeks) for the season.

If the USDA piece rate average for April 1976 of $3.58 per hour were used in this survey, earnings would translate into $130.67 per week

and $4,299.04 per 32.9 week season.

→ Do average earnings per year figures reflect work opportunities in agriculture?

No. Farm workers' annual average earnings figures are often quoted as evidence that farm workers are impoverished. However, these figures are always distortedly low because they include earnings of workers who only worked a few days in the year and who are not in the farm labor market on a year-round basis. Annual average figures do not reflect the "earnings opportunities" of workers who work in agriculture on a year-round basis, or who take advantage of all possible "work offered."

There have been studies which conclude that workers with low skills can earn more in farm work than they can in non-farm employment and that workers with the same skills working in farm and non-farm work have been unable to command the higher wages usually associated with non-farm employment.

→ United Farm Workers has charged that farm workers are not covered by most of the labor legislation that other workers are covered under. Is this true?

No. The vast majority of farm workers are covered under the same laws as other workers. There is an exclusion under some laws for workers who work with very small growers.

Farm workers are covered under:

Federal Fair Labor Standards Act (minimum wage law); Social Security Act; State and Federal Child Labor Laws; State and Federal Crew Leader Registration Acts (these two acts are extremely far reaching and cover most farm workers in Florida — they guarantee rights for farm workers which very few industrial workers are guaranteed); State Workmen's Compensation Act; State and Federal Acts and Regulations on the transport, application and use of pesticides; Federal Occupational Safety and Health Act; Federal and State temporary, migrant and seasonal farm worker housing regulations; Federal Unemployment Compensation; State and Federal transport of workers regulations; State Field Sanitation Regulations; State and Federal Wage Garnishment Laws; Federal Portal to Portal Pay Act; Federal Food Stamp Act; Federal laws against peonage and against harboring and recruiting illegal aliens; State Right to Work Laws; Federal Equal Pay for Equal Work Law; Federal Age Discrimination in Employment Act; Federal Civil Rights Act and Federal Voting Rights Act of 1965 and others.

Agricultural workers are not included in the National Labor Relations Act.

→ Are any other benefits or services available to farm workers, including migrant workers?

harvested at the precise time of maturity, sometimes a matter of a few hours or just a few days. Farmers cannot build up their inventories to protect themselves during a strike as non-farm industries do, nor is their risk limited to income lost during the period of the strike — they, unlike other industries, lose the capital invested in land preparation, fertilizing, cultivation, etc., during the entire growing season. By investing a short period of time in a strike (during which the union could refer striking workers to other jobs) a union could wipe out a farmer's investment for the entire year.

The consumer would also suffer from the reduced food supply, which could cause a shortage of food, or at the very least, increased costs.

With the increased cost of using labor and the possibility of a complete loss of capital due to harvest time strikes, growers would be forced to seek alternatives to the extensive use of labor such as: (1) mechanization, (2) reduction in production of labor-intensive crops and a switch to crops which can be mechanized, or (3) go out of business.

In all of the alternatives, many farm workers end up with no jobs or reduced job opportunities, and it is small consolation to the worker looking for a job to know that "if" he had a job, it might be at higher wage rates or additional other job-connected benefits.

FLORIDA AGRICULTURE'S POSITION

"Existing state and federal laws of regulations as they relate to all areas of protection for farm workers, farm employers and consumers must be enforced.

"Similar state and federal farm labor laws and regulations attempting to accomplish the same objective must be avoided.

"A state agricultural labor relations act will threaten the stability of the largest segment of Florida's economy and would be detrimental to workers, growers and consumers. A state law would not provide the necessary protections found in federal law. Any collective bargaining law for farm workers must be a federal law and must include safeguards for the protection of farm workers, growers and consumers nationwide." ←

For Further Information, Contact: Fla. Farm Bureau Federation, Fla. Fruit and Vegetable Association, Fla. Citrus Mutual, Fla. Citrus Industrial Council, Fla. Canners Association, Fla. Sugar Cane League, Fla. Nurserymen and Growers Association, Indian River Citrus League and Fla. Citrus Packers. For more detailed information on labor laws and regulations, please refer to the *Handbook of Regulations Affecting Florida Farm Employers and Employees*, by Dr. C.D. Covey, Florida Cooperative Extension Service, IFAS, University of Florida, Gainesville, Florida. 32611.

Yes, there are many. Here are a few.

Children of migratory workers are eligible for special educational benefits, including preschool benefits under the federally funded state and county administered Migratory Child Compensatory Program ($12.5 million in Florida in fiscal 1976). Federally funded state, county and private migrant Health Assistance Programs have been in operation in Florida for decades (recently about $3 million per year). Adult migrant and seasonal farm worker educational programs funded by the U.S. Department of Labor ($800,000 in 1974-75). Farm workers (provided their income is below the stipulated minimum) are eligible for legal assistance through federal, state and locally financed legal aid programs. (One federally funded rural legal aid program has been granted over $500,000 per year since 1947.)

In the area of housing, tens of millions of dollars have been allocated to Florida through both Farmers Home Administration (USDA) and Federal Housing Administration (HUD) for Housing Authority Camps, private home ownership, on-farm camps and other housing for low income workers, including farm workers who fall in this category. Federal, local and privately funded day care centers are available in every area of Florida. Many are located in major farm worker housing camps.

→ Is unionization the answer to farm workers' problems?

No! Unionization cannot create more jobs, guarantee ideal year-round weather and growing conditions, eliminate foreign competition from Mexico and other foreign countries, provide a stabilized market with reasonable returns for the farm product, develop a less perishable product, or alleviate the many other problems attendant with farming and the temporary and seasonal nature of farm employment.

Unionization is also not the answer to the many personal problems of a segment of the farm work force who work in agriculture only because they cannot find a job elsewhere.

A law enhancing unions cannot aid in enforcement of existing state and federal legislation as it affects farm workers and farm employers. Better enforcement by existing agencies can.

On the contrary, unionization could very well increase the cost of using labor, without any necessary increases in productivity, to the point that growers would be forced to find alternatives to the use of extensive labor in agriculture.

The use of harvest strikes as a union organizational tool is of particular concern to Florida growers, and should be of equal concern to workers and consumers.

Growers are particularly vulnerable to harvest time strikes, because most produce must be